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Docket No 48900-C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: G. Makrigiorgos

Application No.: 09/858,200

Group No.: 1634

Filed: May 15, 2001

Examiner: SWITZER, J.C.

For: MUTATION SCANNING ARRAY, AND METHODS OF USE THEREOF

Honorable Commissioner of Patents And Trademarks  
Washington, D.C. 20231

Sir:

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE  
PATENTING REJECTION OVER A PRIOR PATENT**

Your Petitioner, **Dana-Farber Cancer Institute, Inc.**, hereby certifies that pursuant to its review of the pertinent evidentiary documents involved herein, and to the best of the Petitioner's knowledge and belief, ownership right, title and interest in the above-identified application, as well as all patents referred to herein, is in the assignees seeking to take the present action.

Petitioner is the owner of 100 percent interest in both the above-identified patent application, by virtue of an Assignment recorded in the U.S. Patent and Trademark Office at Reel 012276, Frame 0838 on October 18, 2001 and in U.S. Patent No. 6,174,680 by virtue of Assignments recorded in the U.S. Patent and Trademark Office at Reel 9930, Frame 0242 on April 29, 1999 and at Reel 010341, Frame 0446 on October 27, 1999.

Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer filed prior to the issue of U.S. Patent No. 6,174,680 of which Petitioners are the owners of 100 percent interest.

Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U.S. Patent No. 6,174,680, are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of U.S. Patent No. 6,174,680, is shortened by any terminal disclaimer filed prior to the patent grant, in the event that U.S. Patent No. 6,174,680, for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, or terminally disclaimed under 37 C.F.R. §1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The Terminal Disclaimer Fee under 37 C.F.R. §1.20(d) is enclosed herewith. Should any additional fees be required with this submission, or if any credit is due for


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over payment the Commissioner is requested to access Deposit Account No. 50-0850 concerning the same.

The undersigned hereby declare that all statements made herein of his or her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statement and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

By:



Pamela D. Ariniello

Title: Patent Counsel

Dana-Farber Cancer Institute, Inc.

Date: February 11, 2004